

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.1270/96

New Delhi, this the 16th day of February, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. M.P.SINGH, MEMBER (A)

Bhim Singh, aged about 58 years, R/O House No.475, Daryapur Kalan, Delhi - 110 039, presently working as Office Superintendent Grade-I, National Sample Survey Organisation (FOD), Faridabad, Haryana.

.....Applicant.

(By Advocate: Sh. Sanjay K. Dass)

VERSUS

1. Union of India, Through Secretary, Ministry of Planning, Department of Statistics, Patel Bhawan, New Delhi.
2. Director, NSSO (FOD), Pushpa Bhawan, Madangiri Road, New Delhi.
3. Joint Director, NSSO (FOD), Pushpa Bhawan, Madangiri Road, New Delhi.
4. Sh. D.D.Mehto, presently working as Administrative Officer, FOD, Head Quarters, New Delhi.
5. Sh. S.N.Prasad, presently working as Administrative Officer, FOD, Head Quarters, New Delhi.

.....Respondents

(By Advocate: Sh. K.R.Sachdeva)

O R D E R

By Hon'ble Mr. M.P.Singh, M (A):-

The applicant is aggrieved by the order dated 12.2.96 issued by the respondents whereby the applicant has been superseded by two juniors officers, namely, Sh. D.D.Mehto, respondent No.4 and Sh. S.N.Prasad, respondent No.5.

2. The applicant has stated that he is working as Office Superintendent Grade-I in the National Sample Survey Organisation (FOD) under the Ministry of Planning,

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Department of Statistics. He belongs to Scheduled Tribe community. According to him two posts of Administrative Officer (Rs.2000-3500/-) were vacant in the year 1995. A DPC was constituted by the respondents to consider the eligible officers for promotion to the post of A.O. On the basis of recommendations of the Departmental Promotional Committee (DPC), the respondents appointed Smt. P.N. Jeste and Mr. T.V.Rao, who were at Sl.Nos. 1 & 2 respectively in the seniority list. Smt. P.N.Jeste joined the post whereas Mr. T.V.Rao refused to join the said promotional post as a result of which one post remained vacant. Sh. Ghure Lal who was kept in the panel, has in the meantime retired on superannuation.

3. Thereafter another DPC was held on 1.2.96 to consider the candidates for one unfilled vacancy and one anticipated vacancy of 29.2.96 on retirement of Sh. F. Tigga. On the basis of recommendations of the DPC, respondent Nos. 4 & 5 were given promotion w.e.f. 26.2.96 and 1.3.96 respectively (Annexure A-1). The applicant who was senior to respondent Nos. 4 & 5 was ignored. He submitted a representation to respondent No.1 which inter alia states that the action of the respondents is violation of the regulation and official procedure as envisaged in the C.C.S. (C.C.A.) Rules, 1963 (Annexure A-3). The representation was rejected by the respondents on 25.3.96 (Annexure A-4). Hence, he has filed this OA and has sought the relief by praying that the order dated 12.2.96 passed by the respondent No.2, be quashed and the respondents may be directed to promote

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the applicant on the basis of seniority above respondent Nos. 4 & 5 with all consequential service benefits.

4. The respondents in their reply have stated that D.P.C. met on 1.2.96 and considered the name of the applicant, Sh. D.D. Mehto and Sh. S.N. Prasad who were the only eligible Officers at that time as per the Recruitment Rules. The Committee assessed the record for the period from 1.4.90 to 31.3.95 and recommended the names of Sh. Mehto and Sh. Prasad. The Committee assessed the performance of the applicant as "Average" while that of the other Officers as "Very Good".

5. With regard to para 4.1 of the application, the respondents have pointed out that as per the records, the applicant belongs to Scheduled Caste and hence they reserve their right to investigate into the applicant's claim as belonging to Scheduled Tribe. In para 4.10 of the application, they have also pointed out that C.C.S. (C.C.A.) Rules (as mentioned in para 4.10 of the application), do not pertain to the promotional aspects and procedures of Government officials but relate to the disciplinary proceedings etc. of the officials.

6. We have heard the learned counsel for the applicant as well as the learned counsel for the respondents at length and perused the records.

7. As per record, DPC met on 1.2.96 to consider the promotion of the Officers to the post of Administrative Officer (Rs.2000-3500).

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8. As per Recruitment Rules, the post of Administrative officer is a selection post, promotion to which is required to be made from amongst the Office Supdt. Grade-I (Rs.1640-2000) in the field operation Division with three years regular service.

9. As per para 4.1 of the DPC guidelines (Chapter-53) in Swamy's Establishment and Administration, the crucial date for determining eligibility of officers for promotion would be prescribed as under:-

i) 1st July of the year in cases where ACRs are written calendar year-wise; and

ii) 1st October of the year where ACRs are written financial year-wise.

The crucial dates indicated above would be applicable to only such services and posts for which statutory Service Rules do not prescribe a crucial date. In this case both the vacancies relate to the year 1995-96. The crucial date for eligibility would be 1.10.95 as the CRs are written financial year wise and there is no mention of crucial date of eligibility in Recruitment Rules.

10. Para 6.3.1 (i) of these guidelines provides^{for} the following principles for preparation of the panel:

(i) Having regard to the levels of the posts to which promotions are to be made, the nature and importance of duties attached to the posts a bench-mark grade would be determined for each category of posts for which promotions are to be made

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by selection method for all Group "C", Group "B" and Group "A" posts up to (and excluding) the level of Rs. 3,700-5,000 excepting promotions for induction to Group "A" posts or Services from lower groups, the bench-mark would be "Good". All officers whose overall grading is equal to or better than the bench-mark should be included in the panel for promotion to the extent of the number of vacancies. They will be arranged in the order of their inter se seniority in the lower category without reference to the overall grading obtained by each of them provided that each one of them has an overall grading equal to or better than the bench-mark of "Good".

11. According to the Recruitment Rules, only those officers who have completed three years regular service in the grade of Office Supdt. are eligible for consideration for promotion to the post of A.O. It is observed from the seniority list that both the respondents Nos. 4 & 5, namely, Sh. D.D.Mehto & Sh. S.N.Prasad were appointed to the grade of Office Supdt. on 20.11.92 (Annexure A-5). Hence, they have not completed three years regular service on the crucial date of eligibility i.e. 1.10.95 and were not eligible for consideration to the post of A.O. We have also perused the DPC proceedings as well as the service records and we find that the respondent No.4 who is not eligible for consideration and is junior to the applicant does not have better record of service according to their own yearwise assessment made by the DPC itself on the basis of last 5 confidential reports.

12. In the light of the facts stated above, it is clear that DPC proceedings are vitiated as the Committee have neither followed the principles laid down in the guidelines nor they have considered the persons eligible

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as per Recruitment Rules and have acted against their own year-wise assessment made on the basis of CRs of last five years.

13. We have observed that the applicant has also not mentioned the correct facts in his OA in paras 4.1 and 4.10. As pointed out by the respondents that as per their records, the applicant belongs to Scheduled Caste community, but has stated that he belongs to Scheduled Tribe community. In para 4.10, he has stated that the DPC procedure mentioned in C.C.S. (C.C.A.) Rules, 1963, guidelines have been violated which is not applicable in this case. These mistakes have been admitted by the applicant in his rejoinder in paras 5.2 and in para 5.7 and has stated that errors have been rectified. He has not amended the OA by filing MA even after four years. During the course of hearing, learned counsel for the applicant has admitted that the correct procedure has not been followed by him and has tendered unconditional apology. The applicant is an educated person and is an aspirant for promotion to the post of A.O. It is not expected from an Officer of his rank that he was unaware of these facts while filing this application.

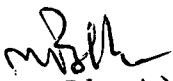
14. In the facts and circumstances of the present case and in the light of what has been stated above, the order dated 12.2.1996, issued by respondent No.3, is hereby quashed and set aside. Respondents are directed to hold a meeting of DPC to review the DPC proceedings of 1.2.96 within a period of two months from the date of receipt of a copy of this order. In case the applicant

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is found fit and promoted to the post of A.O., he would be entitled to all consequential benefits in accordance with the relevant rules/ instructions. However, we make it clear that respondent Nos. 4 & 5 shall not be disturbed from their present position till a review DPC is held by the respondents as directed above.

15. In the circumstances of the case, we direct the applicant to pay Rs. 500/- (Rupees five hundred) as costs in favour of Government.


(M.P. Singh)
Member (A)

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(Smt. Lakshmi Swaminathan)
Member (J)